

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

December 3, 2004

OFFICE OF
MANAGING DIRECTOR

Joseph M. Fry
Vice President and Chief Financial Officer
Petracom Media, LLC
1527 N. Dale Mabry Highway, Suite 105
Lutz, Florida 33548

Re: Petracom Media, LLC
FY 2004 Regulatory Fees
Fee Control No. 00000RROG-04-079

Dear Mr. Fry:

This letter responds to your request dated August 11, 2004, for a waiver of the fiscal year (FY) 2004 regulatory fees for stations licensed to various entities affiliated with Petracom Media, LLC (Petracom). According to the attachment to your request, the fees due total \$14,595.00. They include: \$6,790.00 for 11 stations owned by Petracom of Joplin, LLC (Joplin); \$3,960.00 for 11 stations owned by Petracom of Texarkana, LLC (Texarkana); \$2,735.00 for 10 stations owned by Petracom of Show Low, LLC (Show Low); and \$1,110.00 for 3 stations owned by Petracom of Holbrook, LLC (Holbrook). Our records reflect that the FY 2004 regulatory fees at issue here have not been paid.

In your request, you state that "Petracom and its subsidiaries . . . continue to operate under Chapter 11 of the United States Bankruptcy Code." You state that "Petracom is having serious financial difficulty in the current economy" and that "[p]ayment of the 2004 [r]egulatory [f]ees will have a serious impact on our ability to meet payroll and other expenses." You submit a copy of each of the voluntary petitions for Chapter 11 bankruptcy reorganization that Petracom, Texarkana, Show Low, and Joplin filed with the United States Bankruptcy Court for the Middle District of Florida, Tampa Division (Bankruptcy Court). Petracom, Texarkana, and Show Low filed for bankruptcy on February 17, 2004, and Joplin filed for bankruptcy on October 9, 2003. You also submit a copy of the "Amended Order (A) Approving Debtors' [i.e., Petracom, Joplin, Texarkana, and Show Low's] Joint Disclosure Statement, (B) Fixing Time for filing Objections to Debtors' Joint Plan of Reorganization, (C) Fixing Time for Filing Acceptances or Rejections of Debtors' Joint Plan of Reorganization, and (D) Approving Form of Notice Thereof" signed by the Bankruptcy Court on August 30, 2004. In a subsequent communication, you clarify that Holbrook "did not file for bankruptcy, but it is operated by" Show Low under a time brokerage agreement.¹

¹ A time brokerage agreement (TBA) is a type of contract that generally involves the sale by a licensee of discrete blocks of time to a broker that then supplies the programming to fill that time and sells the commercial spot advertisements that support the programming.

The Commission has determined that it will waive regulatory fees for licensees who are bankrupt or are in receivership at the time the fees are due. *See Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12762 (1995). Based upon the evidence that you provide that Joplin, Texarkana, and Show Low were in bankruptcy on the date the FY 2004 regulatory fees were due (i.e., August 19, 2004), we grant your request for waiver of the FY 2004 regulatory fees for the stations licensed to those entities.

With respect to Holbrook, you have submitted no evidence to show that Holbrook was in bankruptcy or in receivership at the time the regulatory fees were due. Further, your statement that Holbrook is affiliated with Show Low and is operated by Show Low under a TBA provides no basis for a waiver of the regulatory fee. We therefore deny your request for waiver of the FY 2004 regulatory fees for the stations licensed to Holbrook.

To the extent that you assert that it would be a financial hardship for Holbrook to pay the regulatory fees, the Commission may waive, reduce, or defer regulatory fees only upon a showing of good cause and a finding that the public interest will be served thereby.² The Commission will waive, reduce or defer its regulatory fees in those instances where a petitioner presents a compelling case of financial hardship.³ Regulatees can establish financial hardship by submitting

information such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection . . . (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information. 10 FCC Rcd at 12761-12762.

In the absence of such documentation, or other relevant showing, you have failed to establish a compelling case for relief on the basis of financial hardship. Payment of the FY 2004 regulatory fees for the stations licensed to Holbrook are now due. The \$1,100.00 regulatory fees should be filed together with a Form FCC 159 (copy enclosed) within 30 days from the date of this letter. However, in view of your allegations of financial hardship, in lieu of payment, you may refile Holbrook's request for waiver together with appropriate supporting documentation and a request to defer further payment of the fees, within 30 days from the date of this letter.

² See 47 U.S.C. §159(d); 47 C.F.R. §1.1166; *see also Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, Report and Order*, 9 FCC Rcd 5333, 5344 (1994), *on recon.*, *Memorandum Opinion and Order*, 10 FCC Rcd 12,759, para. 12 (1995) (regulatory fees may be waived, deferred, or reduced on a case-by-case basis in extraordinary and compelling circumstances upon a clear showing that a waiver would override the public interest in reimbursing the Commission for its regulatory costs).

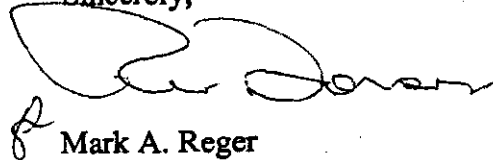
³ See *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5346 (1994), *on recon.*, 10 FCC Rcd 12759 (1995).

Mr. Joseph M. Fry

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In summary, we grant your request for a waiver of the FY 2004 regulatory fees for Joplin, Texarkana, and Show Low, and we deny your request for a waiver of the FY regulatory fees for Holbrook. If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger", is written over a horizontal line.

Mark A. Reger
Chief Financial Officer

Enclosure